

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MIRANDA D'ANCONA, MARIE RUPERT,
DORIS KAUFMAN

: Index No. 07 CIV 5788(LTS)

Plaintiffs,

: DECLARATION OF JACK L. COHEN IN
: SUPPORT OF MOTION

-against-

D& R TRANSPORT, (a/k/a P.S. INC.) and
DONALD P. MOORE

:
:

Defendants.

JACK L. COHEN, declares as follows pursuant to the Federal Rules of Civil Procedure in 28 U.S.C. Section 1746:

1. I am a member of the bar of this Court and of the firm of the **LAW OFFICES OF**

CHARLES J. SIEGEL, the attorneys for defendants in the above-entitled action.

2. I make this declaration in support of a motion to strike plaintiff's complaint with prejudice as to the defendants based upon plaintiff's failure to provide automatic disclosure in this action or, in the alternative, pursuant to Federal Rules of Civil Procedure 37(a) for an Order compelling plaintiff to provide said discovery and (2) requiring plaintiff and her counsel to pay the cost associated with this motion, including attorneys fees.

3. This is an action for personal injuries allegedly sustained *inter alia*, by plaintiff **MARIE RUPERT** as the result of a contact between **MS. RUPERT** and a vehicle owned by **D&R TRANSPORT** and operated by **DONALD P. MOORE** on February 19, 2007 on a public highway called Christopher Street in the Borough of Manhattan, City, County and State of New York. (A true and correct copy of plaintiff's summons and complaint is annexed hereto and made a part hereof as **Exhibit "A"**).

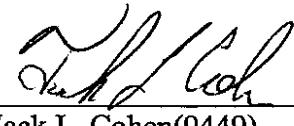
4. At a conference held before the Honorable Laura P. Swain, United States District Judge, plaintiff's were directed to provide automatic disclosures pursuant to the Federal Rules of Procedure, including disclosure of all medical records on or before June 20, 2008.

5. Despite the Order of the Court, plaintiff's counsel has failed to provide the requisite automatic disclosure in this matter pursuant to Federal Rule Procedure 26, and, virtue of said failure, has rendered defendants unable to adequately apprise themselves of the information and documents necessary to prepare a proper defense to the within action.

6. No application for the same or similar relief has been requested herein.

WHEREFORE, your affiant respectfully requests that this Honorable Court enter an Order pursuant to the Federal Rules of Civil Procedure striking plaintiff's complaint for failure to provide automatic disclosure pursuant to the rules of court in this matter or, in the alternative for an Order compelling plaintiff to provide the automatic disclosure required by Court rule by requiring plaintiff and her counsel to pay the costs associated with this motion including attorneys fees.

Dated: New York, New York
July 14, 2008



Jack L. Cohen(9449)